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8 **BEFORE THE**  
9 **CALIFORNIA BOARD OF ACCOUNTANCY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2005-9

13 LYNN R. RICHARD  
14 5737 Kanan Road #183  
15 Agoura Hills, CA 91301

**DEFAULT DECISION  
AND ORDER**

16 Certified Public Accountant License No. 68929

[Gov. Code, §11520]

17 Respondent.

18 FINDINGS OF FACT

19 1. On or about February 15, 2005, Complainant Carol Sigmann, in her  
20 official capacity as the Executive Officer of the California Board of Accountancy, Department of  
21 Consumer Affairs, filed Accusation No. AC-2005-9 against Lynn R. Richard (Respondent)  
22 before the California Board of Accountancy.

23 2. On or about May 12, 1995, the California Board of Accountancy (Board)  
24 issued Certified Public Accountant License No. 68929 to Respondent. Certificate No. 68929 was  
25 expired and was not valid from May, 1 1996, through June 3, 1996, for the following reasons:

26 a. the renewal fee required by California Business and Professions Code Section  
27 5070.5 was not paid; and

28 b. the declaration of compliance with continuing education requirements was not  
submitted.

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1 Effective June 4, 1996, the certificate was renewed through April 30, 1998, upon  
2 receipt of the renewal fee and declaration of compliance with continuing education requirements  
3 ("active"). The certificate was renewed for the period May 1, 1998, through April 30, 2000, with  
4 continuing education ("active"). The certificate was expired and was not valid during the period  
5 May 1, 2000, through January 29, 2001, for the following reasons:

6 a. the renewal fee required by California Business and Professions Code Section  
7 5070.5 was not paid; and

8 b. the declaration of compliance with continuing education requirements was not  
9 submitted.

10 Effective January 30, 2001, the certificate was renewed through April 30, 2002,  
11 upon receipt of the renewal fee and declaration of compliance with continuing education  
12 requirements ("active"). The certificate was expired and was not valid during the period May 1,  
13 2002, through September 25, 2002, for the following reasons:

14 a. the renewal fee required by California Business and Professions Code Section  
15 5070.5 was not paid; and

16 b. the declaration of compliance with continuing education requirements was not  
17 submitted.

18 Effective September 26, 2002, the certificate was renewed through April 30, 2004,  
19 upon receipt of renewal fee and declaration of compliance with continuing education  
20 requirements ("active"). The Certificate expired on May 1, 2004, and is currently in a  
21 "delinquent" status.

22 3. On or about February 18, 2005, Maria Elena Hernandez, an employee of  
23 the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.  
24 AC-2005-9, Statement to Respondent, Notice of Defense, Request for Discovery, and  
25 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
26 with the Board, which was and is 5737 Kanan Road #183, Agoura Hills, CA 91301. A copy of  
27 the Accusation is attached as Exhibit A, and is incorporated herein by reference.

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1                   4.     Service of the Accusation was effective as a matter of law under the  
2 provisions of Government Code section 11505, subdivision (c).

3                   5.     On or about February 28, 2005, the aforementioned documents were  
4 returned by the U.S. Postal Service marked "Attempted, Not Known." A copy of the postal  
5 returned documents are attached hereto as Exhibit B incorporated herein by reference.

6                   6.     Business and Professions Code section 118 states, in pertinent part:

7                   "(b) The suspension, expiration, or forfeiture by operation of law of a license  
8 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the  
9 board or by order of a court of law, or its surrender without the written consent of the board, shall  
10 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the  
11 board of its authority to institute or continue a disciplinary proceeding against the licensee upon  
12 any ground provided by law or to enter an order suspending or revoking the license or otherwise  
13 taking disciplinary action against the license on any such ground."

14                  7.     Government Code section 11506 states, in pertinent part:

15                  "(c) The respondent shall be entitled to a hearing on the merits if the respondent  
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the  
17 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
18 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

19                  8.     Respondent failed to file a Notice of Defense within 15 days after service  
20 upon her of the Accusation, and therefore waived her right to a hearing on the merits of  
21 Accusation No. AC-2005-9.

22                  9.     California Government Code section 11520 states, in pertinent part:

23                  "(a) If the respondent either fails to file a notice of defense or to appear at the  
24 hearing, the agency may take action based upon the respondent's express admissions or upon  
25 other evidence and affidavits may be used as evidence without any notice to respondent."

26                  10.    Pursuant to its authority under Government Code section 11520, the Board  
27 finds Respondent is in default. The Board will take action without further hearing and, based on  
28 Respondent's express admissions by way of default and the evidence before it contained in

1 Exhibit A, finds that the allegations in Accusation No. AC-2005-9 are true.

2 11. The total costs for investigation and enforcement are \$6,050.76 as of April  
3 20, 2005.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Lynn R. Richard has  
6 subjected her Certified Public Accountant License No. 68929 to discipline.

7 2. A copy of the Accusation is attached.

8 3. The agency has jurisdiction to adjudicate this case by default.

9 4. The California Board of Accountancy is authorized to revoke Respondent's  
10 Certified Public Accountant License based upon the following violations alleged in the  
11 Accusation:

12 a. Business and Professions Code section 5100, subdivision (c),  
13 obtained money under false pretenses.

14 b. Business and Professions Code section 5100, subdivision (j),  
15 knowingly prepared and disseminated a materially misleading audit report.

16 c. Business and Professions Code section 5100, subdivision (k),  
17 embezzled and misappropriated funds by fraudulent means.

18 d. Business and Professions Code section 5100, subdivision (g),  
19 willfully violated audit documentation requirements.

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1 **DECISION AND ORDER**

2 IT IS SO ORDERED that Certified Public Accountant License No. 68929,  
3 heretofore issued to Respondent Lynn R. Richard, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined by statute.

8  
9 This Decision shall become effective on June 24, 2005.

10 It is so ORDERED May 25, 2005

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12 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
13 DEPARTMENT OF CONSUMER AFFAIRS

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22 Attachments:

23 Exhibit A: Accusation No.AC-2005-9

24 Exhibit B: Postal return documents

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26 50034082.wpd  
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**Exhibit A**  
**Accusation No. AC-2005-9**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JAMI L. CANTORE, State Bar No. 165410  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-2569  
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2005-9

11 LYNN R. RICHARD  
5737 Kanan Road #183  
12 Agoura Hills, CA 91301

**A C C U S A T I O N**

13 Certified Public Accountant License No. 68929

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Carol Sigmann (Complainant) brings this Accusation solely in her official  
19 capacity as the Executive Officer of the California Board of Accountancy, Department of  
20 Consumer Affairs.

21 2. On or about May 12, 1995, the California Board of Accountancy issued  
22 Certified No. 68929 (Certified Public Accountant) to Lynn R. Richard (Respondent).

23 3. Certificate No. 68929 was expired and was not valid from May 1, 1996,  
24 through June 3, 1996, for the following reasons:

25 a) the renewal fee required by California Business and Professions Code Section  
26 5070.5 was not paid; and

27 b) the declaration of compliance with continuing education requirements was not  
28 submitted.

4. Effective June 4, 1996, the certificate was renewed through April 30, 1998, upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active"). The certificate was renewed for the period May 1, 1998, through April 30, 2000, with continuing education ("active").

5. The certificate was expired and was not valid during the period May 1, 2000, through January 29, 2001, for the following reasons:

a) the renewal fee required by California Business and Professions Code Section 5070.5 was not paid; and

b) the declaration of compliance with continuing education requirements was not submitted.

6. Effective January 30, 2001, the certificate was renewed through April 30, 2002, upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active").

7. The certificate was expired and was not valid during the period May 1, 2002, through September 25, 2002, for the following reasons:

a) the renewal fee required by California Business and Professions Code Section 5070.5 was not paid; and

b) the declaration of compliance with continuing education requirements was not submitted.

8. Effective September 26, 2002, the certificate was renewed through April 30, 2004, upon receipt of renewal fee and declaration of compliance with continuing education requirements ("active").

9. The Certificate expired on May 1, 2004, and is currently in a "delinquent" status.

## JURISDICTION

10. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.



1           11.     Section 5100 states:

2           "After notice and hearing the board may revoke, suspend, or refuse to renew any  
3 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5  
4 (commencing with Section 5080), or may censure the holder of that permit or certificate for  
5 unprofessional conduct that includes, but is not limited to, one or any combination of the  
6 following causes:

7           .....

8           "(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in  
9 the same or different engagements, for the same or different clients, or any combination of  
10 engagements or clients, each resulting in a violation of applicable professional standards that  
11 indicate a lack of competency in the practice of public accountancy or in the performance of the  
12 bookkeeping operations described in Section 5052.

13           .....

14           "(g) Willful violation of this chapter or any rule or regulation promulgated by the  
15 board under the authority granted under this chapter.

16           .....

17           "(j) Knowing preparation, publication, or dissemination of false, fraudulent, or  
18 materially misleading financial statements, reports, or information.

19           "(k) Embezzlement, theft, misappropriation of funds or property, or obtaining  
20 money, property, or other valuable consideration by fraudulent means or false pretenses."

21           12.     Section 118, subdivision (b), of the Code provides that the  
22 suspension/expiration of a license shall not deprive the Board of jurisdiction to proceed with a  
23 disciplinary action during the period within which the license may be renewed, restored, reissued  
24 or reinstated.

25           13.     Section 5097 states:

26           "(a) Audit documentation shall be a licensee's records of the procedures applied,  
27 the tests performed, the information obtained, and the pertinent conclusions reached in an audit  
28 engagement. Audit documentation shall include, but is not limited to, programs, analyses,

1 memoranda, letters of confirmation and representation, copies or abstracts of company  
2 documents, and schedules or commentaries prepared or obtained by the licensee.

3 "(b) Audit documentation shall contain sufficient documentation to enable a  
4 reviewer with relevant knowledge and experience, having no previous connection with the audit  
5 engagement, to understand the nature, timing, extent, and results of the auditing or other  
6 procedures performed, evidence obtained, and conclusions reached, and to determine the identity  
7 of the persons who performed and reviewed the work.

8 "(c) Failure of the audit documentation to document the procedures applied, tests  
9 performed, evidence obtained, and relevant conclusions reached in an engagement shall raise a  
10 presumption that the procedures were not applied, tests were not performed, information  
11 was not obtained, and relevant conclusions were not reached. This presumption shall be a  
12 rebuttable presumption affecting the burden of proof relative to those portions of the audit that  
13 are not documented as required in subdivision (b). The burden may be met by a preponderance of  
14 the evidence.

15 "(d) Audit documentation shall be maintained by a licensee for the longer of the  
16 following:

17 "(1) The minimum period of retention provided in subdivision (e).

18 "(2) A period sufficient to satisfy professional standards and to comply with  
19 applicable laws and regulations.

20 "(e) Audit documentation shall be maintained for a minimum of seven years which  
21 shall be extended during the pendency of any board investigation, disciplinary action, or legal  
22 action involving the licensee or the licensee's firm. The board may adopt regulations to establish a  
23 different retention period for specific categories of audit documentation where the board finds  
24 that the nature of the documentation warrants it.

25 "(f) Licensees shall maintain a written documentation retention and destruction  
26 policy that shall set forth the licensee's practices and procedures complying with this article."

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1           14.     Section 5107 provides, in pertinent part, that the Board's Executive Officer  
2 may request the administrative law judge, as part of the proposed decision in a disciplinary  
3 proceeding, to direct a Respondent found to have committed a violation or violations of this  
4 chapter to pay to the Board all reasonable costs of investigation and prosecution.

5                               FIRST CAUSE FOR DISCIPLINE

6                               (Unprofessional Conduct: Dishonesty, Fraud)

7           15.     Respondent is subject to disciplinary action under section 5100, subdivision  
8 (c), for unprofessional conduct in that Respondent was dishonest and obtained money under false  
9 pretenses by accepting advance payments (retainer fees), as follows:

10           a.     Diabetes 123.com

11                     On or about January 15, 2002, Respondent was retained to perform audit and/or  
12 compilation services and to prepare the corporate income tax returns for Diabetes 123.com for  
13 the year ended December 31, 2001. Respondent did not perform the agreed upon services, nor  
14 did she return the advance payment amount of \$4,500.00.

15           b.     Accurate Metal Fabricators, Inc. (AMFI Project)

16                     On or about June 17, 2003, Respondent was retained to perform an audit of  
17 Accurate Metal Fabricators, Inc.'s 401(k) pension plan for the year ended December 31, 2002, in  
18 connection with the firm's annual reporting obligations under the ERISA Act. Respondent did  
19 not perform the audit, nor did she return the advance payment of \$2,125.00.

20                     Further, Respondent was dishonest and disseminated a materially misleading audit  
21 report dated August 14, 2003, to Accurate Metal Fabricators, Inc. regarding their 401(k) plan for  
22 the year ending December 31, 2002, which indicated Respondent had completed the audit  
23 engagement. Respondent was unable to provide the Board with the supporting documentation  
24 for the audit of Accurate Metal Fabricators, Inc.'s 401(k) retirement plan for the year ended  
25 December 31, 2002.

26           c.     Cinema Libra Studio

27                     In or about April 2003, Respondent was retained to perform compilation services  
28 and to prepare the corporate income tax returns for Cinema Libra Studio for the years ended

1 December 31, 2001, and December 31, 2002. Respondent did not perform the agreed upon  
2 services, nor did she return the advance payment amount of \$3,850.00.

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct: Prepared a Publication of Materially Misleading Information)

5 16. Respondent is subject to disciplinary action under section 5100, subdivision  
6 (j), for unprofessional conduct in that Respondent knowingly prepared and disseminated a  
7 materially misleading audit report on the AMFI Project, as more fully set forth above in paragraph  
8 15b and incorporated herein by reference.

9 THIRD CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct: Embezzlement, Theft, Misappropriation of Funds or Property)

11 17. Respondent is subject to disciplinary action under section 5100, subdivision  
12 (k), for unprofessional conduct in that Respondent embezzled, misappropriated funds or property  
13 or obtained money, property, or other valuable consideration by fraudulent means or false  
14 pretenses, as more fully set forth above in paragraph 15a through 15c and incorporated herein by  
15 reference.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct)

18 18. Respondent is subject to disciplinary action under section 5100, subdivision  
19 (g), in conjunction with section 5097, for unprofessional conduct in that Respondent willfully  
20 violated the audit documentation requirements on the AMFI Project, as more fully set forth above  
21 in paragraph 15b and incorporated herein by reference.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
24 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

25 1. Revoking, suspending or otherwise imposing discipline on Certified Public  
26 Accountant No. CPA 68929, issued to Lynn R. Richard;

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2. Ordering Lynn R. Richard to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

3. Taking such other and further action as deemed necessary and proper.

DATED: February 15, 2005

*Carol Sigmann*  
CAROL SIGMANN  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant